

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
AT CINCINNATI**

TINA L. MCQUEEN, Administrator of the Estate of Robert W. McQueen, Jr.	:	CIVIL ACTION NO. 0-1-02-155
	:	
	:	
Plaintiff,	:	
	:	Judge Weber
vs.	:	
	:	
BARGE VESSEL OR 4797, et al.	:	
	:	
Defendants.	:	

IN RE: MIDLAND ENTERPRISES, INC.

C-1-02-639

JOINT STATUS REPORT

The parties have reached a tentative settlement with respect to the wrongful death action. In exchange for the payment of \$30,000.00, the parties have agreed to resolve the wrongful death action and all other related tort claims. Plaintiff specifically reserves all rights arising under the Ohio Bureau of Workers' Compensation for benefits paid or payable as a result of the injuries and death of Robert W. McQueen, Jr. It is the intent of the parties that this settlement in no way affect Robert W. McQueen, Jr.'s survivors' eligibility and right to continue to participate in the Workers' Compensation Fund and/or to receive future benefits from the Ohio Bureau of Workers' Compensation relating to the injuries and death of Robert W. McQueen, Jr.

The Plaintiff will dismiss with prejudice her claims against all the Defendants. Midland Enterprises and its affiliated companies and vessels will dismiss cross claims against Osage and CGB as they relate to limitation and indemnity or contribution pertaining to the tort claims. CGB

will dismiss its third party complaint against Cincinnati Bulk Terminals.

Midland Enterprises will pursue the action with respect to contractual indemnity from CGB. Additionally, it has recently been discovered that CNA/MOAC issued a protection and indemnity insurance policy for the time period in question naming Midland Enterprises and its affiliated companies as additional insureds. Midland Enterprises has acquired permission from CGB and CNA/MOAC to resolve the tort claims reserving rights to pursue claims in contract for indemnity from CGB and coverage and indemnity from CNA/MOAC. It may be necessary to institute an additional action or amend the within action to include CNA/MOAC.

With respect to the wrongful death claims, Tina McQueen must obtain probate approval. We anticipate that can be done within the next 30-45 days.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by facsimile and regular

U.S. mail, postage prepaid, this ____ day of September, 2003 to:

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